

ENTERED

June 28, 2023

Nathan Ochsner, Clerk

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION**

MISHIE A. NESBITT,	§	CIVIL ACTION NO
Plaintiff,	§	4:22-cv-01479
	§	
	§	
vs.	§	JUDGE CHARLES ESKRIDGE
	§	
	§	
WELLS FARGO BANK	§	
NA, <i>et al</i> ,	§	
Defendants.	§	

**ORDER ADOPTING
MEMORANDUM AND RECOMMENDATION**

Plaintiff Mishie Nesbitt, proceeding *pro se*, commenced this action in state court, seeking to avoid foreclosure on her residential mortgage. Dkt 1-4. Defendant Wells Fargo Bank removed the case in May 2022. The foreclosure sale was consummated in August. Dkt 23-11. After foreclosure, Nesbitt filed an amended complaint, seeking to declare the sale “null and void” and to “quiet title in Plaintiff’s name based on a declaratory judgment.” Dkt 21 at ¶ 28. Defendants Wells Fargo and Select Portfolio Servicing then moved for summary judgment. Dkt 23. Nesbitt didn’t respond to the motion.

Pending is a Memorandum and Recommendation by Magistrate Judge Christina A. Bryan. Dkt 25. She recommends that the motion for summary judgment be granted because Nesbitt has failed to raise a triable issue of fact demonstrating any current right, title, or ownership in the property after the foreclosure sale. In the memorandum, she also provided notice to Nesbitt of her intention to grant summary judgment *sua sponte* in favor of non-moving Defendant Jelinis LLC, the subsequent

purchaser at the foreclosure sale. Dkt 25 at 10–11; see FRCP 56(f)(1).

The district court reviews *de novo* those conclusions of a magistrate judge to which a party has specifically objected. See FRCP 72(b)(3) & 28 USC § 636(b)(1)(C); see also *United States v Wilson*, 864 F2d 1219, 1221 (5th Cir 1989, *per curiam*). The district court may accept any other portions to which there's no objection if satisfied that no clear error appears on the face of the record. See *Guillory v PPG Industries Inc*, 434 F3d 303, 308 (5th Cir 2005), citing *Douglass v United Services Automobile Association*, 79 F3d 1415, 1430 (5th Cir 1996, *en banc*); see also FRCP 72(b) advisory committee note (1983).

None of the parties filed objections. No clear error otherwise appears upon review and consideration of the Memorandum and Recommendation, the record, and the applicable law.

The Memorandum and Recommendation of the Magistrate Judge is ADOPTED as the Memorandum and Order of this Court. Dkt 25.

The motion by Defendants Wells Fargo and Select Portfolio Servicing for summary judgment is GRANTED. Dkt 23.

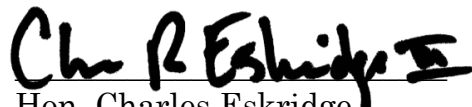
Summary judgment is also *sua sponte* granted in favor of Defendant Jelinis LLC.

This civil action will be DISMISSED WITH PREJUDICE.

A final judgment will enter separately.

SO ORDERED.

Signed on June 28, 2023, at Houston, Texas.


Hon. Charles Eskridge
United States District Judge